



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

APR 11 2017

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mark Freerksen  
Operations Manager  
Freerksen Trucking  
9 3rd Avenue Southwest  
Dodge Center, Minnesota 55927

Re: Notice of Violation for Clean Air Act Violations

Dear Mr. Freerksen:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Freerksen Trucking Incorporated (Freerksen or you) for violating the Clean Air Act (CAA), 42 U.S.C. §§ 7401–7671q, and its implementing regulations. As summarized in the attached NOV, EPA determined that Freerksen removed and/or rendered inoperative devices or elements of design installed on or in motor vehicles or motor vehicle engines and has installed parts or components for motor vehicle engines that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards. Therefore, Freerksen violated sections 203(a)(3)(A) of the CAA, 42 U.S.C. §§ 7522(a)(3)(A).

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the NOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Ethan Chatfield. You may call him at (312) 886-5112 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



Edward Nam  
Director  
Air and Radiation Division

Enclosure

cc: William Hefner, The Environmental Law Group

1. Title II of the CAA was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress’ purpose in enacting the CAA included “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.” CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2).
2. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity.
3. EPA issues certificates of conformity to vehicle manufacturers under section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles conforms to applicable EPA requirements governing motor vehicle emissions.
4. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO<sub>x</sub>), and other pollutants applicable to motor vehicles and motor vehicle engines, including Heavy Duty Diesel (HDD) trucks, under section 202 of the CAA, 42 U.S.C. § 7521. See generally 40 C.F.R. Part 86.
5. EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDD trucks to have Onboard Diagnostic Systems to detect various emission control device parameters and vehicle operations. See section 202(m) of the CAA and 42 U.S.C. § 7521(m) and 40 C.F.R. §§ 86.010-18.

6. To meet the emission standards in 40 C.F.R. Part 86, HDD trucks utilize Diesel Particulate Filter (DPF), Exhaust Gas Recirculation (EGR) systems, and/or Selective Catalytic Reduction (SCR) systems.
7. 40 C.F.R. §86.004-16(a) states that “No new heavy-duty vehicle or heavy-duty engine shall be equipped with a defeat device.”
8. Section 203(a)(3)(A) of the CAA prohibits “any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.”

### **Facility Background**

9. Freerksen Trucking owns and operates a transport company located in Dodge Center, Minnesota.
10. Freerksen is a person, as that term is defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e).
11. On December 20, 2016, EPA issued a CAA Section 208 Information Request to Freerksen.
12. Based on the company’s website and information provided, Freerksen’s mission is to satisfy their customer’s transportation needs through the use of a long-haul trucking operation operating on public roads.
13. On February 15, 2017, Freerksen responded to the Information Request. In the response, Freerksen stated that the company removed air pollution emission control systems on 22 of its HDD trucks from the period of January 1, 2014 to February 15, 2017. In each of these trucks, Freerksen removed or disconnected the SCR systems, DPFs, and/or EGR systems and tampered with the electronic control modules (ECM).

### **Violations**

14. Freerksen violated section 203(a)(3)(A) by removing and rendering inoperative the SCRs, DPFs, and EGRs on 22 of its HDD trucks.

### **Environmental Impact of Violations**

15. These violations have resulted in excess emissions of PM, NO<sub>x</sub>, hydrocarbons, and other air pollutants.

- PM: Especially fine particulates containing microscopic solids or liquid droplets which can get deep into the lungs and cause serious health problems. PM exposure contributes to:
  - irritation of the airways, coughing, and difficulty breathing;
  - decreased lung function;
  - aggravated asthma;
  - chronic bronchitis;
  - irregular heartbeat;
  - nonfatal heart attacks; and
  - premature death in people with heart or lung disease.
- NO<sub>x</sub>: Current scientific evidence links short-term NO<sub>x</sub> exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma. In addition, studies show a connection between breathing elevated short-term NO<sub>x</sub> concentrations and increased hospital admissions for respiratory issues, especially asthma.

#### Enforcement Authority

16. The EPA may bring an enforcement action for these violations under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Persons violating Section 203(a)(3) of CAA, 42 U.S.C. § 7522(a)(3), are subject to an injunction under Section 204 of CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$4,527 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.

Date

4/11/17



Edward Nam  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**


I certify that I sent a Notice of Violation, No. EPA-5-17-MN-05, by Certified Mail, Return Receipt Requested, to:

Mark Freerksen  
Operations Manager  
Freerksen Trucking  
9 3rd Avenue Southwest  
Dodge Center, Minnesota 55927

I also certify that I sent copies of the Notice of Violation by first-class mail to:

William P. Hefner  
The Environmental Law Group, LTD.  
2263 Waters Drive  
Mendota Heights, Minnesota 55120

On the 12<sup>th</sup> day of April 2017.

  
Kathy Jones  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7016 3010 0000 9203 2529